

Appln No. 10/727,245
Amdt. Dated May 10, 2006
Response to Office Action of April 14, 2006

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REMARKS/ARGUMENTS

The Applicant thanks the Examiner for the Office Action dated April 14, 2006.

Claim Rejections – 35 USC § 103(a)

In his last two Office Actions, the Examiner has cited Silverbrook (US 6,857,724) as prior art against the present application under 35 USC § 103(a). Silverbrook was published on February 22, 2005.

The present application was filed on December 2, 2003 and claims priority from an Australian application filed on December 2, 2002. The effective date of the present application is therefore December 2, 2002.

Since Silverbrook was published after the effective date of the present application, it qualifies as prior art only under 35 USC § 102(e). Silverbrook and the present application were, at the time the invention was made, both commonly assigned to SILVERBROOK RESEARCH PTY LTD.

According to 35 USC § 103(c)(1), Silverbrook cannot be used to allege obviousness against the present invention:

(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Given that Silverbrook cannot be used to allege obviousness against the present application under 35 USC § 103(a), the Examiner is requested to withdraw his rejections against the present claims in view of Silverbrook. The rejection is improper.

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It is respectfully submitted that all of the Examiner's objections have been successfully traversed. Accordingly, it is submitted that the application is now in condition for allowance. Reconsideration and allowance of the application is courteously solicited.

Very respectfully,

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